

IN THE CHANCERY COURT FOR DAVIDSON COUNTY, TENNESSEE FOR THE TWENTIETH
JUDICIAL DISTRICT AT NASHVILLE

STATE OF TENNESSEE,
Petitioner,

v.

OXYFRESH WORLDWIDE, INC.,
a Washington corporation,

Respondent.

PETITION

Paul G. Summers, Attorney General and Reporter for the State of Tennessee, (hereinafter "Attorney General") files this Petition pursuant to Tenn. Code Ann. § 47-18-107 of the Tennessee Consumer Protection Act of 1977 (hereinafter "the Act"), and would respectfully show the Court as follows:

1. The Attorney General, acting pursuant to the Act, has investigated certain acts and practices of Oxyfresh Worldwide, Inc., its employees, agents, successors, and assigns, (hereinafter, "Respondent" or "Oxyfresh"). Upon completion of such investigation, the Attorney General has determined that certain of Respondent's acts and practices, more specifically, described in Paragraph 2 of this Petition, constitute unfair and deceptive acts or practices affecting the conduct of trade or commerce in the State of Tennessee in violation of Tenn. Code Ann. § 47-18-101 *et seq.* (The Tennessee Consumer Protection Act). More specifically, Respondent's conduct constitutes violations of Tenn. Code Ann. §§ 47-18-104(a), (b)(2), (b)(3), (b)(5), (b)(7), (b)(21), and (b)(27).

2. Based upon the investigation of Respondent, the Attorney General alleges the following:

(A) Respondent sells a variety of products through a multi-level sales organization.

(B) Respondent has promoted a purported health related product, specifically, the Easy Quit Smokers Support System since at least 1997.

(C) Respondent has promoted the Easy Quit Smokers Support System as a smoking deterrent product and sold the marketed the product on the basis of its claimed healthful properties including claims that the Easy Quit Smokers Support System could treat, cure or prevent nicotine addiction, claims which rendered the Easy Quit Smokers Support System a new drug.

(D) Respondent misrepresented to its distributors and consumers that the Easy Quit Smokers Support System was endorsed by a non-profit organization known as Doctors for a Smoke Free World, said organization having the charitable purpose of educating the public, particularly young people as to the hazards of smoking. In actuality, Doctors for a Smoke Free World never existed as a non-profit organization and the concept was used strictly as a marketing tool.

(E) Respondent made false and misleading representations to consumers in marketing its health care product including, but not limited to, the following: representations which rendered the product an unapproved new drug under federal and state law; representations regarding health benefits which were unsubstantiated; representations which claimed results which were not typical of ordinary consumer experience; and representations that the Respondent was affiliated with nationally recognized non-profit entities, when, in fact, no such affiliation existed.

(F) Respondent's conduct constitutes unfair and deceptive acts or practices.

3. Respondent denies the allegations of Paragraph 2.

4. The Attorney General entered into negotiations with Respondent and the parties have agreed to, and the Division has approved, the attached Assurance of Voluntary Compliance.

5. In accordance with the provisions of Tenn. Code Ann. § 47-18-107(c), the execution, delivery and filing of the Assurance does not constitute an admission of prior violation of the Act.

6. The Division, the Attorney General, and the Respondent, the parties who are primarily interested in the matters set forth in Paragraph 2 hereof, have jointly agreed to the Assurance of Voluntary Compliance and join in its filing.

PREMISES CONSIDERED, Petitioner prays

1. That this Petition be filed without cost bond pursuant to the provisions of tenn. Code Ann. §§ 20-13-101 and 47-18-116.

2. That the Assurance of Voluntary Compliance be approved and filed in accordance with the provisions of the Tennessee Consumer Protection Act.